IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

OP.No. 28975 of 2001(Y)

PETITIONER:

M/S.EASTERN TREADS LTD.,
OONNUKAL, KOTHAMANGALAM,
REP. BY MANAGING DIRECTOR
NAVAS M.MEERAN.

BY ADV. SRI.C.K.THANU PILLAI
SRI.T.K.SHAIJ RAJ

RESPONDENTS:
---

1. STATE OF KERALA REP. BY
THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
TRIVANDRUM.

2. THE STATE LEVEL COMMITTEE
FOR SALES TAX EXEMPTION, REP. BY
CONVENOR, DIRECTOR OF INDUSTRIES &
COMMERCE, VIKAS BHAVAN, TRIVANDRUM.

3. THE GENERAL MANAGER, DISTRICT
INDUSTRIES CENTRE, ERNAKULAM.

4. THE SALES TAX OFFICER, KOTHAMANGALAM.

BY G.P. SRI.C.K.GOVINDAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 26/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.47075/2001 IN O.P. NO.28975/2001

DISMISSED:

26.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF NOTIFICATION SRO NO.1729/93 OF R1.

P2: TRUE COPY OF REGISTRATION CERTIFICATE DT.8.8.1994 ISSUED BY R3.

P3: TRUE COPY OF ORDER DT.27.1.1996 OF R3.

P4: TRUE COPY OF ORDER DT.18.11.99 OF R3.

P5: TRUE COPY OF ANNEXURE XIV OF THE PROJECT REPORT OF PETITIONER FILED BEFORE R3.

P6: TRUE COPY OF APPLICATION FOR SALES TAX EXEMPTION DT.24.2.97 FILED BEFORE R3.

P7: TRUE COPY OF ORDER DT.24.11.99 ISSUED BY R3.

P8: TRUE COPY OF APPEAL IN FORM 7 DT.21.2.2000 FILED BEFORE R2.

P9: TRUE COPY OF APPLICATION DT.30.6.2000 FILED BEFORE R2.

P10: TRUE COPY OF NOTES DT.11.6.2001 FILED BEFORE R2.

P11: TRUE COPY OF LETTER DT.7.8.01 ISSUED BY R2.

P12: TRUE COPY OF CIRCULAR DT.25.10.90 OF R1.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 28975 OF 2001

Dated this the 26th day of March, 2007

JUDGMENT

Petitioner is challenging Ext.P11 order whereunder the State Level Committee has confirmed disallowance of petitioner's claim for additional exemption for sales tax under the notification SRO 1729/93. Petitioner has started a new industrial unit in 1994 and got sales tax exemption under the first certificate for seven years from 1.8.1994 to 31.7.2001. Petitioner got exemptions further on two occasions on account of additions towards modernisation/expansion/diversification scheme provided under SRO 1729 of 1993. However, exemption claimed in the third application on additional investments made in land and building was rejected by the third respondent. Against this order petitioner filed appeal before the State Level Committee which rejected it vide Ext.P11. It is against this order that the Petitioner has filed this O.P. I heard Sri. C.K. Thanu Pillai, counsel appearing for the petitioner and Government Pleader appearing for the respondents and I have also gone through Ext.P11 order. The investment in land and

building has not resulted in any expansion or modernisation or diversification as visualised in SRO 1729 of 1993 under which exemption was claimed for additional investment. However, petitioner's case is that additional investment made in the form of acquisition of land and building qualifies for exemption because it should be treated as original investment for the industry as a whole. I am unable to accept this contention because the scheme of the notification provides for exemption on initial investment through first certificate and thereafter additional investment qualifies for exemption only if such investment is made under any expansion or modernisation or diversification scheme. Admittedly addl. investment in land building has not resulted in any expansion or modernisation or diversification as contemplated under the notification. In the circumstances, the claim is rightly rejected as neither the notification nor the Sales Tax Manual provides for exemption on additional investment except when it is made under the Expansion, Diversification and Modernisation scheme.

O.P. is therefore devoid of any merit and is dismissed.

(C.N.RAMACHANDRAN NAIR)
Judge